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RUCNASE/ASEAN MEMBER COLLECTIVE
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RUEHBY/AMEMBASSY CANBERRA 2259
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C O N F I D E N T I A L RANGOON 000591

SIPDIS

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PACOM FOR FPA

E.O. 12958: DECL: 08/18/2019

TAGS: [PGOV](#) [PREL](#) [PHUM](#) [BM](#)

SUBJECT: BURMA: DIVISIONAL COURT TO CONSIDER AUNG SAN SUU
KYI APPEAL; ARGUMENTS SET FOR SEPTEMBER 18

REF: A. (A) RANGOON 566

[1](#)B. (B) RANGOON 550

Classified By: P/E Chief Jennifer Harhigh for Reasons 1.4 (b) & (d)

Divisional Court to Consider Appeal

[1](#)1. (C) Aung San Suu Kyi's (ASSK) lawyers confirmed the Rangoon Divisional Court has agreed to consider their appeal of ASSK's August 11 conviction on charges she violated the terms of her house arrest. ASSK lawyer and NLD spokesman Nyan Win told us ASSK's legal team formally filed its memorandum of appeal September 3, following three meetings with ASSK since she returned to house arrest August 11 (Ref A). On September 4, the lawyers appeared in court to request the appeal be considered. During that session, Rangoon Divisional Court authorities agreed to admit the appeal and scheduled formal arguments for September 18.

Appeal Arguments Focus on Constitution, Communication with Outsiders

[1](#)2. (C) Nyan Win told us September 8 that the defense team and government prosecutors both will present arguments September 18. ASSK currently is not scheduled to attend that session, but could be called upon to appear if the Rangoon Divisional Court agrees to hear evidence rejected by the lower court. ASSK's lawyers plan to contend that her prosecution was baseless because the 1974 Constitution and corresponding laws are no longer valid. Furthermore, they plan to argue that ASSK did not violate a prohibition on communication with outsiders because she did not seek to directly communicate with American John Yettaw; rather he initiated communication with her.

[1](#)3. (C) After the Divisional Court hears the appeal, theoretically it can either uphold the lower court ruling, reduce the sentence, or overturn the conviction. During a past meeting, Nyan Win told us he expects the Divisional Court appeal process could last two-three weeks. ASSK's legal team plans to exercise all options for appeal, a multi-stage process that could last until the end of 2009 (Ref B).

Comment

¶4. (C) The Divisional Court's decision to consider the appeal is no surprise. As with ASSK's initial trial and associated legal proceedings regarding the admission of witnesses, the authorities continue to take pains to portray a legitimate legal process. Nonetheless, as ASSK's lawyer Kyi Win (aka Neville) observed recently (Ref B), ultimately only Than Shwe himself will decide when ASSK will go free.

VAJDA